

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2013-00029, to install an eight foot fence in the front and side yard setbacks, under Section 6.29 of the Zoning Bylaw, at 1240 West Street (Map 25D, Parcel 28, R-O Zoning District) with the following conditions:

1. The fence shall not exceed eight feet in height and shall be constructed substantially in accordance with the fence "detail", approved by the Zoning Board of Appeals. Materials shall consist of pressure treated posts and rough cut Pine. The fence shall be maintained and kept in good repair, replaced as needed, or removed if in disrepair.
2. The fence shall be located no closer than eight feet from the edge of pavement/curb and shall be substantially in accordance with the Proposed Fence Insulation plan, prepared by the Amherst Department of Public Works, dated May 7, 2013.
3. Within one month from the issuance of a building permit, a planting plan first reviewed and approved by the Town Engineer shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.
4. Within one month from the issuance of a building permit, information regarding the color of the fence shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.
5. Within one growing season from the filing of this permit with the Town Clerk, the approved plantings shall be installed and said landscaping shall be maintained in good repair as long as the fence is in place.

Eric Beal 
Eric Beal, Chair
Amherst Zoning Board of Appeals

9/9/13
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Margret Stebbins, 1240 West Street, Amherst, MA 01002

Date application filed with the Town Clerk: June 18, 2013

Nature of request: For a Special Permit to install an eight foot fence in the front and side yard setbacks, under Section 6.29 of the Zoning Bylaw

Address: 1240 West Street (Map 25D, Parcel 28, R-O Zoning District)

Legal notice: Published on June 26, 2013 and July 3, 2013 in the Daily Hampshire Gazette and sent to abutters on June 27, 2013

Board members: Eric Beal, Carolyn Holstein, Pari Riahi

Staff members: Jeff Bagg, Senior Planner

Submissions:

- ZBA application, filed with the Town Clerk on June 18, 2013
- Project Summary/request, Amherst Department of Public Works, June 5, 2013
- Proposed Fence Insulation plan, prepared by the Amherst DPW, dated May 7, 2013
- Locus map
- Former and existing conditions photographs
- Fence detail/specification plan
- Project Application Report, dated July 3, 2013

Site Visit: July 10, 2013

Pari Riahi met the Senior Planner, Jeff Bagg, on-site. Mr. Bagg explained that a previous ZBA panel had met with the Town Engineer, Jason Skeels on-site. However, due to a scheduling conflict, that panel had been replaced and this was a follow-up site visit. The following was observed:

- The location of the property along the west side of West Street, Route 116.
- The approximate location of the proposed fence eight feet from the road edge and its location with respect to the driveway.

Public Hearing: July 11, 2013

Due to a scheduling conflict with the originally scheduled ZBA panel, the hearing was opened and continued to August 15, 2013.

Public Hearing: August 15, 2013

The Town Engineer, Jason Skeels, presented the application on behalf of the property owners and explained the project as follows:

- The fence is needed as a result of the widening of Route 116 associated with the Atkins Corner roundabouts. During construction, the DPW learned that the existing mature white pines in front of the subject property needed to be removed.
- As a consequence of the tree removal, the property owners lost a valuable noise barrier, as well as physical barrier from Route 116. Because the removal of the trees was an oversight on part of the Town, the DPW has agreed to pay for the installation of a suitable replacement and to assist the owner with any permitting. The DPW agreed to pay for the installation of an eight foot white vinyl fence. However, the owners have proposed an alternative hand-crafted wood panel design for which they will pay for any costs in excess of the cost for a vinyl fence.
- The fence at the proposed location would serve both as an effective sound barrier and physical barrier to prevent the owners' young child from wandering too close to Route 116.
- The proposal involves the installation of approximately 200 linear feet of fence along the front of the property. The fence will be situated eight feet from the edge of the road and one foot from the property line. The location of the fence was determined to allow for adequate storage of snow plowed off of Route 116.
- The fence will be eight feet in height and will be hand-crafted by the owner and constructed out of rough cut pine and pressure treated posts.

The Board discussed whether some landscaping should be required between the road and the fence. The Board noted concerns that the fence could be in stark contrast to the adjacent properties which retained mature trees and other vegetation. The Board determined that landscaping could soften the visual impact of the fence. Mr. Skeels noted that there were early discussions with the Tree Warden about landscaping and noted that he believed the owners would be agreeable. Mr. Bagg inquired whether the Town Engineer would require any time to consult with the owners to come up with a plan. Mr. Skeels recommended that the Board create a condition requiring the submission of a planting plan.

Specific Findings:

The Board found under Section 6.29 of the Zoning Bylaw, the following:

6.29 - Under the provisions of Section 10.38 or 11.24, as applicable, fence, wall, and planting requirements as found in Sections 6.23 through 6.28 may for compelling reasons of safety, aesthetics, or site design be modified by the Permit Granting Board or Special Permit Granting Authority with jurisdiction over the proposed or existing Principal or accessory use(s) for which the fence serves as an accessory structure. The Board finds that the proposed eight foot tall fence within the required front setback is justified for the following reasons:

- The loss of mature evergreen vegetation acted as screening and noise blocking. The Board noted that the loss of vegetation was not created by the property owner, rather, was due to the widening of West Street.
- The fence is needed for the safety of the owners, who have a young child.
- The requirement for landscaping in front of the fence is intended to soften the potential visual impact of the fence on the surroundings.

Therefore, the Board waived the height requirements of Section 6.24 to allow the installation of an eight foot fence in the front setback where the height limit is four feet and an eight foot fence in the side yard where the height limit is six feet.

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.*

The eight foot fence is suitably located given the property's close proximity to Route 116, which is a very heavily traveled street. The planting of vegetation between the street and fence will serve to soften the appearance of the fence and make it more compatible within the neighborhood.

10.384 - *Adequate and appropriate facilities would be provided for the proper operation of the proposed use.* The permit is conditioned to require that the fence and landscaping be maintained in good repair.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features..* The proposal will provide necessary safety and noise buffering for the property owner without causing or creating hazards or visually offensive structures. Additionally, the proposal reasonably protects adjoining premises by requiring landscaping in front of the fence to soften its visual impact.

10.392 - *The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage.* The permit is conditioned to require that landscaping be installed in front of the fence to soften the visual impact on the surroundings.

10.398 - *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The proposal supports Article one of the Zoning Bylaw in that it promotes the health and safety of the residents of the property.

Zoning Board Decision

Mr. Beal MOVED to approve the application with conditions. Ms. Holstein seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2013-00029, to install an eight foot fence in the front and side yard setbacks, under Section 6.29 of the Zoning Bylaw, at 1240 West Street (Map 25D, Parcel 28, R-O Zoning District) with conditions.

Eric Beal
ERIC BEAL

Carolyn Holstein
CAROLYN HOLSTEIN

PARI RIAHI

FILED THIS 9th day of Sept., 2013 at 4:15 pm,
in the office of the Amherst Town Clerk Susan Audette Asst.
TWENTY-DAY APPEAL period expires, September 29 2013.
NOTICE OF DECISION mailed this 10th day of September, 2013
to the attached list of addresses by Jeffrey R. Bugs, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2013.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2013,
in the Hampshire County Registry of Deeds.

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Margret Stebbins

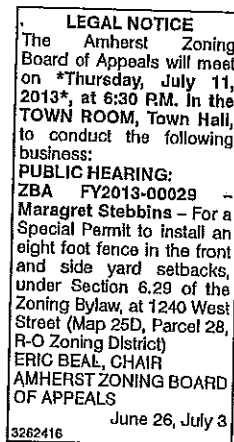
For a Special Permit to install an eight foot fence in the front and side yard setbacks,
under Section 6.29 of the Zoning Bylaw

On the premises of 1240 West Street

At or on Map 25D, Parcel 28, R-O Zoning District

NOTICE of hearing as follows mailed (date) June 27, 2013
to attached list of addresses and published in the Daily Hampshire Gazette
dated June 26, 2013 and July 3, 2013

Hearing date and place August 15, 2013 (Town Hall)



SITTING BOARD and VOTE TAKEN:

a Special Permit, ZBA FY2013-00029, to install an eight foot fence in the front and side yard setbacks, under Section 6.29 of the Zoning Bylaw

Eric Beal -- Yes

Carolyn Holstein -- Yes

Pari Riahi - Yes

DECISION: APPROVED with conditions as stated in permit

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Margaret Stebbins
Address 1240 West Street
City or Town Amherst, MA 01002

Identify Land Affected: 1240 West Street
(Map 25D, Parcel 28, R-O Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

1240 West Street Amherst
Street City or Town

The record of title standing in the name of
Margaret Stebbins
Name of Owner

Whose address is 1240 West Street Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 10849 Page 68
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2013-00029
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Eric Beal (JB) Chairman
(Board of Appeals)
Cynthia M. Hulteen Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____

Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/Zip
25C-1-36	1 AUTUMN LN	CHAPMAN, MARY LOU		1 AUTUMN LN	AMHERST, MA 01002
25C-2-36	2 AUTUMN LN	BALCOM, JEANNE L & JOHN M		2 AUTUMN LN	AMHERST, MA 01002
25C-3-36	3 AUTUMN LN	AMARAL, LUIZ A & CUNHA, FLAVIA T		3 AUTUMN LN	AMHERST, MA 01002
25C-4-36	4 AUTUMN LN	PRISCILLA BAIRD HINCKLEY TRUST	C/O PRISCILLA B HINCKLEY	1095 PINELLAS PT DR SO #457	ST PETERSBURG, FL 33705-6393
25C-5-36	5 AUTUMN LN	DUBOIS, DAVID G	C/O PREMIER PROPERTY MANAGEMENT	113 ELM ST	ENFIELD, CT 06082
25C-6-36	6 AUTUMN LN	RICHARDSON, TREVOR		6 AUTUMN LN	AMHERST, MA 01002
25C-7-36	7 AUTUMN LN	STONE, JUDITH		7 AUTUMN LN	AMHERST, MA 01002
25C-8-36	8 AUTUMN LN	SPENCER, BETTE A	C/O EAGLE CREST PROPERTY MNGMT	55 NORTH PLEASANT ST	AMHERST, MA 01002
25C-9-36	9 AUTUMN LN	ANDERSON, RONALD T	ANDERSON, BARBARA G	9 AUTUMN LN	AMHERST, MA 01002
25C-10-36	10 AUTUMN LN	DOSTAL, KELLY A		1 NEW RD UNIT B2	RUMFORD, RI 02916-2066
25C-11-36	11 AUTUMN LN	DICKSON, STUART G & JUDITH A		11 AUTUMN LN	Amherst, MA 01002
25C-12-36	12 AUTUMN LN	HIXON, PAMELA & JENNIFER		12 AUTUMN LN	AMHERST, MA 01002
25C-13-36	13 AUTUMN LN	KARBASIOUN, KEYVAN		13 AUTUMN LN	AMHERST, MA 01002
25C-14-36	14 AUTUMN LN	MAGNUS, BARRY M		5323 COLUMBIA RD APT A	COLUMBIA, MD 21044-1563

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
25C-15-36	15 AUTUMN LN	CHEBOTAREV, TANYA	RIVIN, GEORGE	560 RIVERSIDE DR #15P	NEW YORK, NY 10027-3241
25C-16-36	16 AUTUMN LN	TANG, YA & CAO, LIANGLIANG		16 AUTUMN LN	Amherst, MA 01002
25C-17-36	17 AUTUMN LN	IZUROV, ANDREI V & TANYA E		17 AUTUMN LN	AMHERST, MA 01002
25C-18-36	18 AUTUMN LN	LEWELLEN, RACHEL C		18 AUTUMN LN	AMHERST, MA 01002
25C-19-36	19 AUTUMN LN	ISAEFF, MARIANNE D		P.O. BOX 1008	LOMA LINDA, CA 92354
25C-20-36	20 AUTUMN LN	CLAPPROOD, DARREN M		20 AUTUMN LN	AMHERST, MA 01002
25C-21-36	21 AUTUMN LN	DOYLE, PAMELA J		21 AUTUMN LN	AMHERST, MA 01002
25C-22-36	22 AUTUMN LN	THOMAS, ADDISON A		22 AUTUMN LN	Amherst, MA 01002
25C-23-36	23 AUTUMN LN	CHUNG, SANG HEE		23 AUTUMN LN	AMHERST, MA 01002
25C-24-36	24 AUTUMN LN	HUNT, MARGARET R		24 AUTUMN LN	AMHERST, MA 01002
25C-25-36	25 AUTUMN LN	VOLPE, STEVEN F		25 AUTUMN LN	AMHERST, MA 01002
25C-26-36	26 AUTUMN LN	NAUGHTON, KATHERINE S		26 AUTUMN LN	AMHERST, MA 01002
25C-27-36	27 AUTUMN LN	NAUGHTON, KATHERINE S		26 AUTUMN LN	AMHERST, MA 01002
25C-28-36	28 AUTUMN LN	HART, MARK D		28 AUTUMN LN	AMHERST, MA 01002
25C-29-36	29 AUTUMN LN	HAGLER, ARNOLD T TRUSTEE	C/O RALIROAD ST PARTNERS LLC	55 NO PLEASANT ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
25C-30-36	30 AUTUMN LN	SAUNDERS, LINDA H & JOSEPH H TRUSTEES		9 NORMANDIE RD	DOVER, MA 02030
25C-31-36	31 AUTUMN LN	BAJ, ROSE M		31 AUTUMN LN	AMHERST, MA 01002
25C-32-36	32 AUTUMN LN	GOODMAN, ROBERT & LEVIN, STEPHANIE		133 FRANKLIN ST	NORTHAMPTON, MA 01060
25C-33-36	33 AUTUMN LN	CONLON, CHRISTINE K		33 AUTUMN LN	AMHERST, MA 01002
25C-34-36	34 AUTUMN LN	SPECTOR, KENNETH S & LAURA		34 AUTUMN LN	AMHERST, MA 01002
25C-35-36	35 AUTUMN LN	XING, WENJUN & LI, ZHENQUIN		44 SOUTH MT HOLYOKE DR	AMHERST, MA 01002
25C-36-36	36 AUTUMN LN	ERWIN, ROBERT G REVOC TRUST	ERWIN, ROBERT G TRUSTEE	36 AUTUMN LN	AMHERST, MA 01002
25C-37-36	37 AUTUMN LN	GUNTUPALLI, SRINIVASA		37 AUTUMN LN	AMHERST, MA 01002
25C-38-36	38 AUTUMN LN	GILBERT, MICHAEL W	GLADSTONE, ADELE	38 AUTUMN LN	AMHERST, MA 01002
25C-39-36	39 AUTUMN LN	ARONSON, NAOMI		39 AUTUMN LN	AMHERST, MA 01002
25C-40-36	40 AUTUMN LN	KROMKA, NANCY A		40 AUTUMN LN	AMHERST, MA 01002
25C-41-36	41 AUTUMN LN	DYMON, JOSEPH MICHAEL & UTE J		41 AUTUMN LN	AMHERST, MA 01002
25C-42-36	42 AUTUMN LN	AOYAMA, SARA A		42 AUTUMN LN	Amherst, MA 01002
25C-43-36	43 AUTUMN LN	STONEHAM, SYLVIA B		43 AUTUMN LN	AMHERST, MA 01002
25C-44-36	44 AUTUMN LN	BURTON, DARIUS A		44 AUTUMN LN	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
25C-45-36	45 AUTUMN LN	ZAIDI, JANE K		7803 S E 27TH ST APT D404	MERCER ISLAND, WA 98040
25C-46-36	46 AUTUMN LN	KANE, ROBERT LEE & SUSAN W		46 AUTUMN LN	AMHERST, MA 01002
25C-47-36	47 AUTUMN LN	BRINSFIELD, MARK T		47 AUTUMN LN	AMHERST, MA 01002
25C-48-36	48 AUTUMN LN	CUOMO, SYLVIA		48 AUTUMN LN	AMHERST, MA 01002
25C-49-36	49 AUTUMN LN	SHARPE, DAVID B		49 AUTUMN LN	Amherst, MA 01002
25C-50-36	50 AUTUMN LN	SHILLING, ANDREA M		50 AUTUMN LN	Amherst, MA 01002
25D-54	RAMBLING RD	HAMPSHIRE VILLAGE II COMM CORP	UPPER ORCHARD II CONOMINIUMS	C/O HPWG P O BOX 686	NORTHAMPTON, MA 01060
25B-33	1184 WEST ST	KELLY, DAVID C & MENEELY, ALLAN C		1184 WEST ST	AMHERST, MA 01002
25B-29	1194 WEST ST	APPLE BROOK WEST LLC		15 PLUM ST	GLOUCESTER, MA 01930
25D-28	1240 WEST ST	STEBBINS, MARGARET		1240 WEST ST	Amherst, MA 01002
25D-31	1260 WEST ST	JACQUE, RONALD A & DEBORAH G		1260 WEST ST	AMHERST, MA 01002
25D-29	1270 WEST ST	HOLMES, CYNTHIA D		1270 WEST ST	AMHERST, MA 01002